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THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

7-Eleven, Inc.,
a Texas corporation,

Plaintiff,

v.

7 to Late, Inc., a California
corporation; and Sundeep Kumar
d/b/a 7-TO-LATE, an individual,
Defendants.

Civil Action No. 05-02468 EMC
Hon. U.S.M.J. Edward M. Chen

CONSENT JUDGMENT

This matter has been presented to the Court by and with
the consent of plaintiff, 7-Eleven, Inc. ("7-Eleven"), and the
defendants 7 to Late, Inc., a California corporation, and Sundeep
Kumar, d/b/a 7-TO-LATE, an individual (collectively "Defendants"),
the Court having been fully advised in the premises, it is hereby
ORDERED, ADJUDGED and DECREED:

1 1. This Court has jurisdiction over the parties
2 hereto and over the subject matter hereof.

3 2. Since long prior to the acts of the Defendants
4 which are the subject of this action, 7-Eleven has been engaged in
5 the business, inter alia, of offering convenience store services
6 and products, to the general public at various locations
7 throughout the United States.

8 3. 7-Eleven has provided its aforesaid convenience
9 store services under the name and mark 7-ELEVEN since at least as
10 early as 1946.

11 4. There are currently over 5,000 convenience stores
12 throughout the United States, including the State of California,
13 operated by 7-Eleven or its franchisees under 7-Eleven's aforesaid
14 7-ELEVEN name and mark.

15 5. A primary display of 7-Eleven's 7-ELEVEN name and
16 mark which is used by virtually all of the aforesaid convenience
17 stores, including those in California, is a multicolored logo
18 consisting of the following: an Arabic numeral "7" displayed
19 primarily in the color red with a break between the horizontal and
20 vertical elements and a curved vertical shank that is intersected
21 by the term "ELEVEN," displayed in a contrasting color in block
22 capital letters, all displayed against a white background ("7-
23 ELEVEN Logo"), as depicted below:
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6. Since long prior to the acts of the Defendants which are the subject of this action, 7-Eleven and its franchisees annually have sold nationally billions of dollars of products and services under its aforesaid 7-ELEVEN name, mark, and logo, and annually have spent millions of dollars to advertise and promote those products and services.

7. By virtue of the aforesaid extensive use, advertising and promotion, and long prior to the acts of the Defendants which are the subject of this action, 7-Eleven's aforesaid 7-ELEVEN name, mark, and logo, each have become famous and extremely well known among consumers, and have acquired a strong secondary meaning signifying 7-Eleven.

8. 7-Eleven has registered its aforesaid 7-ELEVEN mark in the United States Patent and Trademark Office. Such registrations include the following:

<u>REG NO.</u>	<u>DATE</u>	<u>GOODS OR SERVICES</u>
718,016	7/04/61	Retail Grocery Service
896,654	8/11/70	Retail Grocery Service

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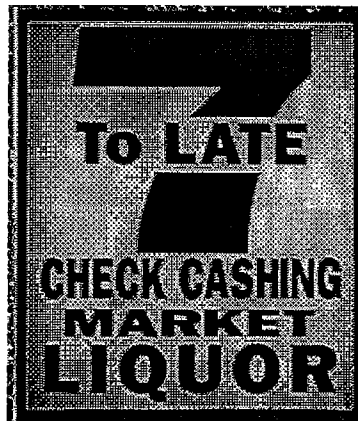
<u>REG NO.</u>	<u>DATE</u>	<u>GOODS OR SERVICES</u>
920,897	9/21/71	Retail Grocery Service
961,594	6/19/73	Various flavors of soft drinks
1,035,454	3/09/76	Sandwiches
1,288,594	8/07/84	Gasoline
1,402,425	7/22/86	Soft drinks for consumption on or off the premises
1,702,010	7/21/92	Coffee for consumption on or off the premises
2,152,472	4/21/98	Telephone calling card services
2,685,684	2/11/03	Retail store services featuring gasoline and retail store services featuring convenience store items
2,765,976	9/23/03	<i>inter alia</i> , clothing, namely caps, jackets, shirts, sweatshirts, t-shirts
2,834,419	4/20/04	Retail convenience store services

22 Said registrations are valid, subsisting, and owned by 7-Eleven,
 23 and Reg. Nos. 718,016, 896,654, 920,897, 961,594, 1,035,454,
 24 1,288,594, 1,402,425, 1,702,010, and 2,152,472 are now
 25 incontestable in accordance with 15 U.S.C. §§ 1065 and 1115(b).

26 9. 7-Eleven now owns a most valuable goodwill which
 27 is symbolized by its 7-ELEVEN name, mark, and logo, and the use of
 28 each of these trade identities substantially increases the value

1 of 7-Eleven's and its franchisees' 7-ELEVEN stores and the
2 salability of the goods sold through them.

3 10. Long subsequent to the aforesaid acquisition of
4 fame and secondary meaning of 7-Eleven's 7-ELEVEN name, mark, and
5 logo, Defendants commenced use of the name and mark 7 TO LATE, and
6 displaying the said name and mark at each of the Defendants'
7 Monterey Highway stores as a multicolored logo consisting of the
8 following: an Arabic numeral "7" displayed in the color red with
9 a curved vertical shank that is intersected by text displayed in a
10 contrasting color in block capital letters, all displayed against
11 a white background ("7 TO LATE Logo"), as depicted below:
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20 11. Defendants, 7 to Late, Inc. and Sundeep Kumar, and
21 all others who are officers, partners, agents, servants,
22 employees, and attorneys, and all in active concert or
23 participation with them, be permanently enjoined from:

24 a. using the 7 TO LATE name, mark or logo for
25 convenience stores or related products or services;

26 b. using any name, mark or logo, consisting in whole
27 or in part, of the numerals "7" or "11," or the words "seven"
28

1 or "eleven," for convenience stores or related products or
2 services;

3 c. using any other name, mark or logo which is a
4 reproduction, counterfeit, copy or colorable imitation of 7-
5 Eleven's 7-ELEVEN name, mark or logo;

6 d. using any other name, mark, logo or trade dress
7 displayed in any color combinations, with or without
8 additional colors, which includes in combination two or more
9 of the colors red, green, orange, and white; or any design
10 element used in connection with any such name, mark, logo or
11 trade dress which includes any numeral, design or other
12 graphic element intersected by another numeral or word,
13 design or other graphic element, for convenience store or
14 related products or services;

15 e. doing any other act or thing likely to confuse,
16 mislead or deceive others into believing that either
17 defendants, their services, or products emanate from 7-Eleven
18 or are connected with, sponsored by or approved by 7-Eleven;
19 and,
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21 f. doing any other act or thing likely to dilute the
22 distinctiveness of 7-Eleven's trade identities including the
23 7-ELEVEN name, mark or logo.

24 12. The Defendants are required, in accordance with 15
25 U.S.C. § 1118, to deliver up to 7-Eleven for destruction all
26 labels, signs, prints, packages, wrappers, receptacles,
27 advertisements and all plates, models, matrices and other means of
28 making the same, as well as all related goods and things in

1 defendant's possession, custody or control bearing the 7 TO LATE
2 name, mark or logo, or any other simulation, or counterfeit of the
3 7-ELEVEN name, mark or logo, or any other reproduction,
4 counterfeit, copy or colorable imitation of 7-Eleven's trade
5 indicia.

6 13. Within ninety (90) days from the date that this
7 Consent Judgment is entered by the Court, Defendants shall each
8 by signed writing, sent to Counsel for 7-Eleven, Inc., Wildman,
9 Harrold, Allen & Dixon, 225 West Wacker Drive, Suite 3000,
10 Chicago, Illinois 60606, inform 7-Eleven of their complete
11 compliance with the terms of this Consent Judgment and shall
12 forward an affidavit evidencing compliance with this judgment,
13 including but not limited to, any licenses and permits held by
14 defendant which use a name or mark proscribed by this Consent
15 Judgment and shall forward color photographs showing that any
16 store signs have been changed to comply with this Consent
17 Judgment.
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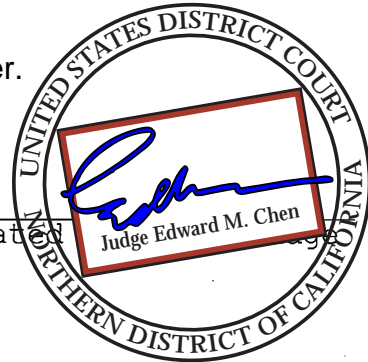
19 14. Defendants are jointly and severally responsible
20 for, and expressly agree to pay, all costs and fees, including
21 legal fees, that 7-Eleven incurs in successfully enforcing the
22 terms of this Consent Judgment before the Court, including but
23 not limited to, costs incurred or associated directly or
24 indirectly with filing or otherwise bringing any claim, motion,
25 cause of action, suit, rule to show cause or contempt motion for
26 purposes of enforcing any term or provision of this Consent
27 Judgment.
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The Clerk of the Court is directed to close this matter.

SO ORDERED:

Dated: September 16, 2005

United States



CONSENTED TO:

7-ELEVEN, INC.

7 TO LATE, INC.

By: Julie M. Nichols

By: Sundeep Kumar

Name: Julie M. Nichols

Name: SUNDEEP KUMAR

Title: Attorney In Fact

Title: PRESIDENT

SUNDEEP KUMAR

Sundeep Kumar
Sundeep Kumar

APPROVED AS TO FORM:

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